



# PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION  
445 TWELFTH STREET, S.W.  
WASHINGTON, D.C. 20554

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**DA 03-2734**  
**Released: August 26, 2003**

**WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON  
APPLICATION FOR REVIEW OF THE WIRELESS TELECOMMUNICATIONS  
BUREAU'S ORDER GRANTING A PETITION FOR DECLARATORY RULING THAT  
PROVISIONS OF THE ANNE ARUNDEL COUNTY, MARYLAND ZONING  
ORDINANCE ARE PREEMPTED AS IMPERMISSIBLE REGULATION OF RADIO  
FREQUENCY INTERFERENCE**

**WT Docket No. 02-100**

Comment Date: September 26, 2003

Reply Comment Date: October 14, 2003

On August 6, 2003, Anne Arundel County, Maryland ("County") filed an Application for Review ("Application") requesting that the full Commission reverse a decision by the Wireless Telecommunications Bureau ("Bureau") in a Memorandum Opinion and Order ("Order"), DA 03-2196, released July 7, 2003, granting a Petition for Declaratory Ruling filed by Cingular Wireless LLC finding that provisions of the County's zoning ordinance are preempted under federal law.<sup>1</sup> The County maintains that reversal of the Bureau's decision is required because the Order conflicts with a controlling statute, 47 U.S.C. § 332(c)(7)(B), and applies a precedent or policy that should be overturned or revised. The County further states that, pending implementation of the Commission's 800 MHz proceeding,<sup>2</sup> the Bureau's decision leaves public safety systems of local governments such as the County's vulnerable to and powerless to deal with potentially deadly radio frequency interference from wireless systems of commercial mobile radio service providers operating in the 800 MHz band.

Interested parties may file comments on the County's Application for Review on or before September 26, 2003. Parties interested in submitting reply comments must do so on or

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<sup>1</sup> See In the Matter of Petition for Declaratory Ruling filed by Cingular Wireless LLC that Provisions of the Anne Arundel County Zoning Ordinance are Preempted as Impermissible Regulation of Radio Frequency Interference Reserved Exclusively to the Federal Communications Commission, *Memorandum Opinion and Order*, 2003 WL 2151783 (WTB/2003). See also Petition for Declaratory Ruling filed by Cingular, dated April 23, 2002.

<sup>2</sup> See Improving Public Safety Communications in the 800 MHz Band, *Notice of Proposed Rulemaking*, 17 FCC Rcd 4873 (2002).

before October 14, 2003. All comments should reference the Application, Docket No. WT 02-100 and DA number of this Public Notice, DA 03-2734.

This matter has been designated as a "permit but disclose" proceeding in accordance with the Commission's ex parte rules. 47 C.F.R. §§ 1.1200(a), 1.1206.<sup>3</sup> Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 C.F.R. § 1.1206(b). Other rules pertaining to oral and written ex parte presentations in permit-but-disclose proceedings are set forth in Section 1.1206(b) of the Commission's rules. 47 C.F.R. § 1.1206(b).

The Application is available for public inspection and copying in the Commission's Reference Center, Room CY-A257, 445 12th Street, S.W., Washington, DC 20554. Copies of the Application are also available from Qualex International, Portals II, 445 12<sup>th</sup> Street, SW, Room CY-B402, Washington, D.C. 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or e-mail at [qualexint@aol.com](mailto:qualexint@aol.com). Copies of the Application also may be obtained via the Commission's Electronic Comment Filing System (ECFS), which is accessible at <http://www.fcc.gov/e-file/ecfs.html>, by entering the Docket Number of this proceeding, Docket No. WT 02-100.

Under the Commission's current procedures for the submission of filings and other documents, submissions in this matter may be filed electronically or by paper, according to the instructions below.<sup>4</sup>

- **If filed electronically** by e-mail, pleadings shall be filed at the following e-mail address: [WTBSecretary@fcc.gov](mailto:WTBSecretary@fcc.gov). Please also copy (CC) Milton Price at [milton.price@fcc.gov](mailto:milton.price@fcc.gov). For security purposes, we recommend that pleadings filed via electronic mail be converted to PDF format.
- **If filed by ECFS,**<sup>5</sup> comments shall be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal

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<sup>3</sup> See Wireless Telecommunications Bureau Seeks Comment on Petition for Declaratory Ruling that Amendments to the Anne Arundel County, Maryland Zoning Ordinance are Preempted as Impermissible Regulation of Radio Frequency Interference Reserved Exclusively to the Federal Communications Commission, *Public Notice*, 17 FCC Rcd. 8303 (rel. May 7, 2002).

<sup>4</sup> See In the Matter of Implementation of Interim Electronic Filing Procedures for Certain Commission Filings, *Order*, 16 FCC Rcd 21483 (2001); FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence, *Public Notice*, 16 FCC Rcd 22165 (rel. Dec. 14, 2001).

<sup>5</sup> See Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24,121 (1998).

Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

- **If filed by paper**, the original and four copies of each filing must be filed by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission will receive hand-delivered or messenger-delivered paper filings addressed to the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

One copy of each pleading must be delivered electronically, by e-mail or facsimile, or if delivered as paper copy, by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (according to the procedures set forth above for paper filings) to: (1) the Commission's duplicating contractor, Qualex International, Portals II, 445 12<sup>th</sup> Street, SW, Room CY-B402, Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail at the following e-mail address: [qualexint@aol.com](mailto:qualexint@aol.com); (2) Milton Price, Commercial Wireless Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12<sup>th</sup> Street, SW, Washington, DC 20554 or (202) 418-7447 (facsimile), or via e-mail at the following e-mail address: [milton.price@fcc.gov](mailto:milton.price@fcc.gov).

For further information contact: Gary Oshinsky, Commercial Wireless Division, Wireless Telecommunications Bureau, at (202) 418-7167.

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